1. **Call to Order**

Chairman Peter Lyon called the meeting to order at 6:30 p.m.

Attendees by Zoom conference call: Chairman Peter Lyon, Selectman Dwight Brew, Selectman Reed Panasiti, Selectman John D’Angelo, and Selectman Tom Grella.

Also present: Town Administrator Dean Shankle and Kristan Patenaude, recording secretary

Other attendees and the public accessed the meeting via Zoom.

Chairman Lyon explained that, pursuant to the State of Emergency declared by the Governor as a result of the COVID19 pandemic and in accordance with his Emergency Order #12, this meeting is authorized to take place electronically. There is no physical location to observe and listen to this meeting. However, in accordance with the Emergency Order, we are:

Utilizing Zoom teleconferencing for this meeting. All members of the Board have the ability to communicate during the meeting through this platform and the public has access to contemporaneously listen and if necessary, participate in the meeting by dialing +1 301 715 8592 and using a webinar ID of 860-6194-4552 or by using the link contained in the agenda posted at amherstnh.gov.

Notice of the meeting and means to access it were previously posted in accordance with law. Members of the public that have phoned into the meeting can raise their hand by pressing the \*9 on their phone, in order to make it known that they would like to speak to the Board. If anyone has a problem accessing the meeting, please call 603-440-8248 for assistance. In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

All votes will be taken by roll call and for ease, in alphabetical order.

Lastly, the meeting is being recorded and will be replayed on ACATV.

The Board started by taking a roll call vote and stating if they were alone.

*Roll call vote: Selectman Brew – present; Selectman Grella – present; Selectman Panasiti – present; Selectman D’Angelo – present; and Chairman Lyon – present. All noted themselves as being alone.*

1. **Citizen’s Forum**

Kristin Van Goor, 1 High Meadow Lane, stated that she was disappointed to see the Governor’s order to eliminate the state-wide mask mandate. She explained that local town governments are charged with protecting the health of their communities. She has called several local businesses whose employees are distressed about the mask mandate being eliminated for their businesses. She believes this is putting essential employees at risk. She requested the Board consider instituting a mask mandate policy for Amherst to consider the health of the community. She explained that it is not a good idea for people to drop their guard and fail to continue to put proven techniques into practice, such as wearing a mask. Actions, such as a mask mandate, will allow business to stay open, kids to stay in school in-person, and Town events, such as 4th of July celebrations, to occur. She believes the Town needs to use all of the tools available in order to maintain the health of its citizens.

Chairman Lyon explained that the Board was faced with this decision a few months ago and at that time decided to mandate face masks in all Town buildings, including at the Transfer Station. This seemed to work well and was handled well by townspeople. The Board considered an ordinance to mandate masks for private property and business owners, but declined to move forward with it, as the Board members agreed that there is strength in this community to wear masks and be socially distant without a mandate. He believes people will continue to be responsible to each other in that way. The Board has not reconsidered a mask mandate ordinance, due to the numerous respectful actions seen in the community during the pandemic.

Kristin Van Goor explained that it is good that people are generally complying with these ideas. However, in speaking with local employees, she is concerned for their health and safety. Many of those she spoke to are not yet eligible for the vaccine and she believes everyone in the community deserve the respect and protection that would be received through a Town mask mandate.

Chairman Lyon thanked Ms. Van Goor for her comments and explained that the Board will continue to consider a mask mandate as necessary.

1. **Public Hearing, Bond Authority over $100,000**

**3.1 Pursuant to New Hampshire RSA 33:8-a, the Amherst Board of Selectmen hereby announces to the citizens of Amherst the convening of a Public Hearing to take input on the proposed Open Space Acquisition Bond.**

**All citizens are invited to attend.**

**Amherst Conservation Commission Article 22: Open Space Presentation**

Chairman Lyon read the public hearing notice and explained that this public hearing is being held on Bond Counsel’s advice, in order to comply with State statute.

*A MOTION was made by Selectman Brew and SECONDED by Selectman Panasiti to open into the Public Hearing per RSA 33:8-a.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

Chairman Lyon read Warrant Article 22:

*ARTICLE 22: Open Space Acquisition Bond*

*Shall the Town vote to raise and appropriate the sum of six million dollars ($6,000,000.00) to*

*purchase land and easements or other property interests within the Town of Amherst for*

*conservation purposes, and to authorize the Board of Selectmen to issue bonds or notes up to six million dollars ($6,000,000.00) in compliance with provisions of the Municipal Finance Act (RSA 33:1 et seq., as amended); provided, however, that notwithstanding anything herein to the contrary, the Town shall not issue more than three million dollars ($3,000,000.00) of bonds or notes in any one fiscal year; to authorize the Selectmen to negotiate and determine the rate of interest thereon and the maturity and other terms thereof, and to take any other action they deem appropriate to effectuate the sale and/or issuance of said bonds or notes, however, no such bonds or notes shall be issued with a term of maturity of less than ten (10) years or more than twenty (20) years, furthermore, to authorize the Selectmen to acquire said property exercising their authority under RSA 41:14-a, and additionally to raise and appropriate the sum of Two Hundred Forty Thousand Dollars ($240,000.00) for the first year interest and costs. Land or property interests to be purchased with bond proceeds shall total not more than 800 acres and shall be acquired in the name of the Town as conservation land to be managed by the Conservation Commission pursuant to RSA 36-A:4, to protect and limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas. The authorization to borrow provided hereunder shall not lapse until June 30, 2026. (Tax impact = $0.14) (3/5 Vote Required)*

Rob Clemens, Chairman of the Amherst Conservation Commission (ACC), presented Warrant Article 22 to the Board. He explained that in the past two years, five residential developments with over 300 new homes have been proposed on over 650 acres of undeveloped land in Amherst. Remaining undeveloped areas in Town are vulnerable to development. Responses to the Town’s Master Planning Survey showed an overwhelming support for protection of the Town’s water resources, and preservation of the Town’s rural aesthetic. The ACC developed Warrant Article 22 to provide the Town with a means to acquire open space. The Warrant Article allow for a $6M bond, with acquisitions to occur over time, not to exceed $2M in a given fiscal year. This will have a less than $40/year tax impact for the average home ($350,000).

Public Comment:

Will Ludt, 3 School Street, stated that he fully supports with ACC’s Warrant Article as proposed. For full disclosure, he asked why the Ways & Means Committee voted 4-3-0 in favor of the Warrant Article.

Selectman D’Angelo explained that he believes the Ways & Means Committee members who voted against the Warrant Article did so because they believed it to be a “want” instead of a “need.”

In response to a question from Tom Quinn, 18 North Meadow Road, Jared Hardner, Vice-Chair ACC, explained that the tracts of open space within developments are included in the Town’s open space count.

Kelly Mullin, 48 Christian Hill Road, thanked the ACC for their work on this. She noted that the results of the Master Plan Survey speak to preservation of open space in Town.

Chairman Lyon read the results of a report from the Ways & Means Committee as to why they voted as they did on this Warrant Article. The Ways & Means Committee will speak to this again during the Deliberative Session.

Jared Hardner stated that it is important to note that the Ways & Means Committee vote came before the results of the Master Plan Survey were known.

*A MOTION was made by Selectman Brew and SECONDED by Selectman Panasiti to close the Public Hearing.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

Town Administrator Shankle explained that all Warrant Articles will next to presented to the public at the Deliberative Session on May 5, 2021. The Board and Ways & Means Committee will then have the chance to change their votes on these Warrant Articles, if they so choose.

1. **Scheduled Appointments**

**4.1. John Harvey & Bill Stoughton on Discretionary Easements**

Bill Stoughton and John Harvey, of the ACC, presented to the Board on Discretionary Easements. Bill Stoughton explained that, in the past, the Town has generally outright purchased land and conservation easements to protect open space in Amherst. Discretionary Easements are allowed by RSA 79-C for the preservation of open space where there is scenic enjoyment by the general public, or pursuant to a clearly delineated federal, state, or local conservation policy.

Bill Stoughton explained that Discretionary Easements are generally used for lots of less than 10 acres, for a minimum duration of 10 years, and that owners may apply to the Board to cancel the easement based on severe personal hardship. Discretionary Easements have a good degree of conservation protection, but only during the time of the easement. Discretionary Easements have no initial cost to the Town and can be assessed by the Town between Current Use and 75% of the value, at the discretion of the Board. The annual cost per acre to the Town for possible Discretionary Easements is estimated between $98 and $387/acre/year.

Bill Stoughton explained that it is assumed that owners of more than 10 acres would elect Current Use and not Discretionary Easements, as Current Use provides large property tax benefit with fewer restrictions. The ACC worked to identify properties that meet the existing Conservation Plan criteria for protection that are less than 10 acres. 167 properties, of 588 total acres, were found to fit into these criteria. The potential annual cost in property tax revenue lost if all these properties were to seek Discretionary Easements would be between $54,893 and $217,548. Far fewer than the 167 properties would be candidates if easements are restricted to buildable lots that are not already in current use or part of an approved development.

In conclusion, Discretionary Easements could be generally net positive to the Town, with a 10–15-year term, 10% surrender, and a 60+% assessment. It would also be generally net positive to the owner, with a 10–15-year term, 10% surrender, and 70% assessment if appreciation is slightly more than 3% annually. The financial terms of each Discretionary Easement should be analyzed. Discretionary Easements could be useful as a bridge to permanent conservation protection, at little net cost to the Town. It is unknown what the level of property owner interest is in this conservation tool.

John Harvey noted that wildlife corridors are large areas of land where free ranging is possible. Many of the conservation lands in Amherst are disconnected with empty space between the parcels. Discretionary Easements could be a tool to provide limited access to create wildlife corridors between parcels.

Chairman Lyon explained that, per RSA 79-c, property owners can at any time make a request of the Board for a Discretionary Easement. Bill Stoughton agreed and noted that the Board currently has no parameters available to possibly create a benefit to the Town and expectation of property owners.

Dwight Brew stated that he supports the Board entering into a Discretionary Easement agreement with a property owner, when the property meets the Conservation Commission criteria and with an affirmative vote of the Conservation Commission to recommend to the Board to enter into a Discretionary Easement for the property. He is not in favor of the Board determining the percentage of property taxes charged or the termination fee when each individual property is considered. He would rather establish the criteria up front and apply it to all applicable property. Of course, the Board could deviate from the established criteria in exceptional circumstances. The criteria he would support is:

* Property taxes at 70% of FMV
* Termination fee of 10%
* Termination fee waived if:
  + sold or given to the Town, or
  + if there is mutual agreement between the Town and property owner to renew the discretionary easement

Dwight Brew stated that a related comment is that there are multiple ways that a property owner in Amherst could chose to conserve their property – either short-term or in perpetuity.

Examples include:

* Current Use
* Discretionary easement
* Donating or selling the land to the town or another land preservation organization
* Donating or selling a conservation easement to the town or another land preservation organization

He would like to see a human understandable document outlining these options and shared with the public.

Selectman D’Angelo thanked the ACC for their efforts and noted that the ACC wouldn’t recommend this to the Board if it was not beneficial to the Town and local wildlife. He is okay with the policy and outlined, along with the fixed number for tax collection being subject to negotiation. He believes the parameters outlined are a good idea and that petitioners can make arguments as to why the policy does/does not fit their own situations.

In response to a question from Selectman Grella, Bill Stoughton stated there is no fixed time constraint once an application for a Discretionary Easement is made, but the application would need to be heard and considered by both the ACC and Board, and possibly reviewed by Town Counsel. The entire process could take months.

In response to a question from Selectman Panasiti, Chairman Lyon stated that he is unaware of any property owner ever coming to the Board with a Discretionary Easement request. If someone is to come forward with a request, the Board legally needs to entertain it and decide what to do, consistent with the RSA. Bill Stoughton noted that Discretionary Easements are just that, discretionary. The Board could say no to a request, per the RSA.

Chairman Lyon asked that Town Administrator Shankle work with Bill Stoughton and John Harvey to draft a Discretionary Easement policy, consistent with what was presented to the Board tonight. This will then be reviewed by the Board and discussed with the public at a future meeting.

Town Administrator Shankle noted that most towns do not agree to enter into Discretionary Easements because it is not believed to be advantageous to the Town. Those that do, do so to encourage open space in town, and enter into agreements at Current Use value, with no payout in the end. He asked if the ACC had considered using net present value as the basis for agreements in order to get the best deal for the Town.

Bill Stoughton stated that the ACC did not look at this from a broad negotiation-style approach. He explained that he personally would not want to be involved in a lengthy financial negotiation with an applicant, as each application becomes more complex with moving variables. He noted that his initial fear against Discretionary Easements came from the possibility of an investor buying small parcels around Town, seeking Discretionary Easements on them, and essentially having the Town subsidize this investment while the developer waits for it to appreciate. This is why he closely reviewed the parameters to make sure it is a good investment for the Town.

Tom Quinn, 18 North Meadow Road, asked if an analysis has been done in terms of Current Use properties. He noted that property owners might consider a Discretionary Easement instead of Current Use because there is the ability to withdraw the land through a direct request to the Board before then attempting to subdivide it. He stated that he believes the Board should understand the value of the Town’s Current Use program versus the perceived benefit of Discretionary Easements.

In response to a question from Selectman Brew, Rob Clemens stated that he believes if a property is less than 10 acres it would be open to requesting a Discretionary Easement, but if a property is more than 10 acres it would be open to requesting being put into Current Use. Tom Quinn noted that, if this is the case, then his previous point is moot.

**4.2. Janelle Morealle, Opportunity Networks Request to Host the “Ability 5k”**

Janelle Morealle explained that this request is to hold the third annual Ability 5k in Town. This event would take place on October 2, 2021, to promote the health and wellness of adults with disabilities. Opportunity Networks is seeking to use the area on the Village Green and to close Church Street to Manchester/Middle Street, from 7:30am to 12pm on that date. She has also spoken with Police Chief Reams regarding a police detail being available at the Boston Post Road intersection that day.

*A MOTION was made by Selectman Brew and SECONDED by Selectman Grella to approve the requested road race on October 2, 2021, from 7am-12pm and to subsequently close the road between Church Street and the intersection of Manchester/Middle Streets.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

1. **Administration**

**5.1 Acceptance of Waiver of Municipal Liability for a private road**

Attorney Tom Quinn stated that he is representing Josh Roberts and Mikaela Dwyer in this request. The property in question lies in Amherst and Bedford. The property was approved by 2012 by both Amherst and Bedford. The portion of the property in Amherst lacks frontage along a Class V road, as required per RSA 674:41. The property is 12.8 acres and has frontage along a Class V road in Bedford. The Board, per RSA 674:41, has the ability to issue a building permit is the property is located on a road approved by the Planning Board, and if there is a right of way that leads to a Class V road. This property qualifies for an exemption because there is access to it from Pulpit Road in Bedford, which was understood at the time of approval, to be the driveway access to the property. There is also access to the property from Pulpit Road in Amherst, which is a Class VI road. His clients purchased the property in December and have sought a driveway permit from Bedford, but this will not be issued until the Board of Selectmen in Amherst issues a building permit. The Planning Board has reviewed this application and has no objections. The Board also needs to accept the Waiver of Liability.

Selectman Brew stated that the Planning Board would have noted objections if it had concerns.

In response to a question from Selectman D’Angelo, Tom Quinn stated that, aside from references to this specific application and plans, the proposed Waiver of Liability is the same one that was used in the last two applications similar to this one and previously approved by Town Counsel.

In response to a question from Selectman Grella, Tom Quinn stated that the proposed residence will be built in Amherst.

*A MOTION was made by Selectman Brew and SECONDED by Selectman Panasiti to authorize the issuance of building permit for a single-family residence on Map 11 Lot 16, which is located on a class VI road, in accordance with NH RSA 674:41and further to accept the attached Waiver of Municipal Liability from Joshua M Roberts and Mikaela K Dwyer, owners of said property.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

1. **Staff Reports**

**6.1 Amherst Congregational Church Clocktower/Steeple Painting**

DPW Director, Eric Hahn, explained that the Congregational Church sent an offer to the Town for a joint painting project for the Town and Church for the building and steeple. The last two times this painting project was done, the Town did its portion separately. The last time the clocktower and steeple were painted was in 2009, at a cost of $15,385. The Church has reached out to several vendors for this project and received a low bid of approximately $25,000. This low bid quote appears to meet/exceed the requirements of the Town’s RFP from 2009.

In response to a question from Selectman Brew, Eric Hahn confirmed that the Congregational Church sought bids from multiple vendors for painting the Church and Town-owned steeple, without the Town’s knowledge. Eric Hahn noted that it appears that the RFP mentions that the Town may/may not enter into the agreement to paint the steeple as well. Selectman Brew stated that he is conflicted about this item, as the Town was not previously notified about the bid process and had not provided specific requirements, but the Church also received legitimate bids through the process.

Selectman D’Angelo stated that it appears to be reasonable to pursue this project as a joint venture if the pricing is good. Otherwise, the Town can also go out on its own, as it has in the past.

Selectman Panasiti questioned if this painting project could be part of the grant funding that the Church submitted for. He noted that he believes the Town should go out for its own RFP in order to do its due diligence.

In response to a question from Chairman Lyon, Eric Hahn stated that he believes an RFP from the Town for its own part of the painting could result in higher priced bids because the Church will likely have its portion of the Church painted first. The Town’s RFP will then need to instruct the painters to stay off the already painted sections or repair them, if needed.

In response to a question from Selectman Brew, Eric Hahn stated that the lift price was included in the bid for $25,000, but he is unclear if it was included in all of the bids.

Chairman Lyon suggested that Eric Hahn take a closer look at the four bids made to the Church in order to determine if it would be advantageous for the Town to be included in this joint project.

**6.2 Acceptance of Bean Foundation Grant**

*A MOTION was made by Selectman Brew and SECONDED by Selectman Panasiti to accept, with the intent of expending, the $40,000 Bean Foundation Grant, and to deposit the funds into the Recreation Department Revolving Fund 02-3409-53-2270.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

**6.3 Hawker & Vendor Permit – Amherst Soccer Tournament**

*A MOTION was made by Selectman Panasiti and SECONDED by Selectman D’Angelo to approve the Hawker and Vendor permit to Lisa Davidson of the Amherst Soccer*

*Club for sale of food concessions at May 2021 soccer tournament.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

1. **Approvals**

No approvals to review at this time.

1. **Action Items**

The Board reviewed its action items.

1. **Old/New Business**

Chairman Lyon noted that the Town’s Deliberative Session will be held on May 5, 2021. More details to follow.

Chairman Lyon also noted that Town-wide Clean Up Day will be held on May 15, 2021 from 9am-12:30pm. There will be a drop-off site for full bags located on the Village Green and at the entrance to the Souhegan High School. More details to follow.

*A MOTION was made by Selectman Grella and SECONDED by Selectman Panasiti to adjourn the meeting at 8:48pm.*

*By roll call vote: Selectman Brew – aye; Selectman D’Angelo – aye; Selectman Grella – aye; Selectman Panasiti – aye; Chairman Lyon – aye. 5-0-0; motion carried unanimously.*

**NEXT MEETING: Town Deliberative, Wednesday, May 5, 2021**

**SIGNATURE ON FILE MAY 10, 2021**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*Selectman Reed Panasiti* *Date*